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Attorneys for Defendant TrackMan, Inc.

UNITED STATES DISTRICT COURT

DISTRICT OF ARIZONA

Wyoming Intellectual Property Holdings,
LLC,

Plaintiff,

vs.

TrackMan, Inc.,

Defendant.

Case No. 2:23-cv-02518-JJT

**NOTICE OF CERTIFICATION OF
CONFERRAL REGARDING MOTION
TO DISMISS**

(Assigned to the Hon. John J. Tuchi)

Pursuant to L.R. Civ. 12.1(c) and the Court's Order dated December 7, 2023 (Dkt. 9), undersigned counsel personally certifies that certain attorneys representing Defendant TrackMan, Inc. ("TrackMan") notified counsel for Plaintiff Wyoming Intellectual Property Holdings, LLC ("Plaintiff") of this Motion, first by phone, and later by email.

On January 19, 2024, one of the attorneys for TrackMan had a telephone discussion with counsel for Plaintiff. During the call, it was noted that the Complaint filed by Plaintiff identified U.S. Patent No. 8,617,671, which is a different patent from U.S. Patent No. 9,384,671 referred to elsewhere in the Complaint and its attachments and which the

1 Complaint alleges Plaintiff has the right to assert. On the call, one of the attorneys for
2 TrackMan requested that counsel for Plaintiff amend the Complaint to correct this
3 inconsistency, and even agreed to consent and stipulate in writing to the filing of an
4 Amended Complaint.

5 In subsequent emails, counsel for Plaintiff refused to amend. Undersigned counsel
6 emailed both lead and local counsel for Plaintiff on February 11, 2024, making a final
7 demand that Plaintiff amend the Complaint given the inconsistencies between the patent
8 numbers. Counsel Plaintiff responded by email on February 12, 2024, but did not agree to
9 amend. Accordingly, TrackMan filed the Motion to Dismiss being filed concurrently
10 herewith.

11 DATED this 12th day of February, 2024.

12
13 **SPENCER FANE LLP**

14 *s/ David E. Funkhouser III*

15 David E. Funkhouser III
16 Jessica A. Gale

17 *Attorneys for Defendant TrackMan, Inc.*
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CERTIFICATE OF SERVICE

I hereby certify that on February 12, 2024, a copy of the foregoing was filed electronically using the Clerk of Court's CM/ECF system, which will provide notice to all counsel of record.

/s/ Courtney Ryan